

§ 844.104

(2) An individual who separates from employment as a military reserve technician under circumstances set forth in 5 U.S.C. 8456(a)(1) after reaching age 50 and completing 25 years of service is not entitled to a disability annuity under this part, but is entitled to an annuity under § 842.210 of this chapter.

(3) A former military reserve technician is not entitled to an annuity under 5 U.S.C. 8456 based on service as a technician if the technician is subsequently appointed to another position in the Federal Government.

§ 844.104 Administrative review of OPM decisions.

Any individual whose rights or interests under FERS are affected by an initial decision of OPM may request OPM to review its decision under § 841.306.

§ 844.105 Relationship to workers' compensation.

(a) Except as provided in paragraph (b) of this section, an individual who is eligible for both an annuity under part 842 or 844 of this chapter and compensation for injury or disability under subchapter I of chapter 81 of title 5, United States Code (other than a scheduled award under 5 U.S.C. 8107(c)), covering the same period of time must elect to receive either the annuity or compensation.

(b) Notwithstanding the provisions of paragraph (a) of this section, an individual may concurrently receive an annuity based on the individual's service under part 842 or 844 of this chapter and a benefit under subchapter I of chapter 81 of title 5, United States Code, on account of the death of another individual. An individual may also receive an annuity under part 843 of this chapter and compensation for injury or disability to himself or herself under such subchapter I covering the same period of time.

(c) An individual who elects to receive compensation payments under paragraph (a) of this section and who has not received a refund of contributions under § 843.202 retains the right to elect to receive an annuity under part 842 or 844, as the case may be, in the event that the individual's compensation payments cease or are reduced.

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§ 844.106 Disability annuities which include credit for service with a non-appropriated fund instrumentality.

A disability annuity that includes credit for service with a non-appropriated fund instrumentality performed after December 31, 1965, based on an election under 5 CFR part 847, subpart D, is computed under 5 CFR part 847, subpart F.

[68 FR 2178, Jan. 16, 2003]

Subpart B—Applications for Disability Retirement

§ 844.201 General requirements.

(a)(1) Except as provided in paragraphs (a)(3) and (a)(4) of this section, an application for disability retirement is timely only if it is filed with the employing agency before the employee or Member separates from service, or with the former employing agency or OPM within 1 year thereafter.

(2) An application for disability retirement that is filed with OPM, an employing agency or former employing agency by personal delivery is considered filed on the date on which OPM, the employing agency or former employing agency receives it. The date of filing by facsimile is the date of the facsimile. The date of filing by mail is determined by the postmark date; if no legible postmark date appears on the mailing, the application is presumed to have been mailed 5 days before its receipt, excluding days on which OPM, the employing agency or former employing agency, as appropriate, is closed for business. The date of filing by commercial overnight delivery is the date the application is given to the overnight delivery service.

(3) An application for disability retirement that is filed with OPM or the applicant's former employing agency within 1 year after the employee's separation, and that is incompletely executed or submitted in a letter or other form not prescribed by OPM, is deemed timely filed. OPM will not adjudicate the application or make payment until the application is filed on a form prescribed by OPM.

(4) OPM may waive the 1-year time limit if the employee or Member is mentally incompetent on the date of